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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,837	08/31/2001	Semir S. Haddad	01-S-016 (STM101-00021)	2810
30425 7590 05/13/2008 STMICROELECTRONICS, INC. MAIL STATION 2346 1310 ELECTRONICS DRIVE CARROLLTON, TX 75006				
EXAMINER DUNN, MISHAWN N				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
05/13/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/943,837

**Applicant(s)**

HADDAD, SEMIR S.

**Examiner**

MISHAWN DUNN

**Art Unit**

2621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-6,8-13, and 15-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,2,4-6,8-13 and 15-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-144a or PTO-836a)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Intervenor Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Upon further consideration, a new ground(s) of rejection is made for previously objected claims 3, 7, and 14. Therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 18-20 define a multiplexed program stream with descriptive material. While "functional descriptive material" may be claimed as a statutory product when embodied on a tangible computer readable medium, a program stream embodying that same functional descriptive material is neither a process nor a product and therefore does not fall within one of the statutory classes of § 101.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 2, 4-6, 8-13, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato (US Pub. No. 2005/0265700) in view of Zdepski (US Pat. No. 5,565,923).

5. Consider claim 1. Kato teaches for association with a digital video recorder, a controller that multiplexes packetized elementary streams into a multiplexed program stream, said packetized elementary streams comprising PES packets of disparate size, said controller operable to (i) receive said PES packets into a memory buffer, (ii) reformat each of said received PES packets into at least one fixed-size program packet having a header and a payload, wherein the fixed size of said at least one fixed-size program packets is a multiple of a sector size of said storage disk, and (iii) associate ones of said at least one fixed-size program packets into said multiplexed program stream (paras. 0004, 0044-0046, 0061, and 0121; fig. 1).

Kato does not teach that the header defines a payload content.

However, Zdepski discloses teach the header defining a payload content (col. 5, lines 45-51).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to define a payload in the header, in order to transmit the data more efficiently.

6. Consider claim 2. Kato teaches the controller as set forth in claim 1 further operable to store said multiplexed program stream in a storage disk (para. 0061 and fig. 1).

7. Consider claim 4. Kato teaches The controller as set forth in claim 1 wherein each said header defines at least one of stream type, timing information and picture information (paras. 0044 and 0079).
8. Consider claim 5. Kato teaches the controller as set forth in claim 1 wherein said header of each one of said at least one fixed-size program packet has a fixed size (para. 0051).
9. Consider claim 6. Kato teaches a digital video recorder capable of playing back a recorded program stream, said digital video recorder comprising: a video processor capable of receiving an incoming program stream and converting said incoming program stream to a baseband signal capable of being displayed on a television associated with said digital video recorder (taught by disclosing recording of a video signal); a storage disk; and a controller that multiplexes packetized elementary streams into a multiplexed program stream, said packetized elementary streams comprising PES packets of disparate size, said controller operable to (i) receive said PES packets into a memory buffer, (ii) reformat each of said received PES packets into at least one fixed-size program packet having a header and a payload, and (iii) associate and store ones of said at least one fixed-size program packets into said multiplexed program stream in said storage disk (paras. 0004, 0044-0046, 0061, and 0121; fig. 1).

Kato does not teach that the header defines a payload content.

However, Zdepski discloses teach the header defining a payload content (col. 5, lines 45-51).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to define a payload in the header, in order to transmit the data more efficiently.

10. Consider claim 12. Kato teaches the method as set forth in claim 11 further comprising the step of playing back said recorded program stream (para. 0046; fig. 14).

11. Claims 8-11, 13, and 15-20 are rejected using similar reasoning as the corresponding claims above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISHAWN DUNN whose telephone number is (571)272-7635. The examiner can normally be reached on Monday - Friday 7:30 aM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MISHAWN DUNN/  
Examiner, Art Unit 2621  
May 9, 2008

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621